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August 1, 2023

**VIA ECF**

The Honorable James L. Cott  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Thompson et al. v. Elev8 Center NY, LLC et al.*, No. 20 Civ. 9581 (PGG) (JLC) –  
Response to Plaintiffs’ Letter Seeking to Compel Class Discovery

Dear Judge Cott:

We represent Defendants Elev8 Center NY LLC (“**Elev8 Center**”), Urban Recovery, LLC (“**Urban Recovery**”), and Donna Mae Depola (together, “**Defendants**”) in the above-referenced matter. We write in response to Plaintiff’s letter, dated July 31, 2023.

Defendants’ request that the Court deny Plaintiffs’ request for an order compelling Defendants to produce a 20% sampling of class members’ wage documents by August 11, 2023, as the parties were not able to complete the meet and confer process ordered pursuant to this Court’s Order at Docket No. 59. To clarify the record, in regard to Plaintiffs’ request regarding class discovery, this Court ordered that “the parties are directed to meet and confer and come to an agreement on the sampling protocols discussed at the conference.” *See* Dkt. 59. The parties held a meet and confer on February 2, 2022 pursuant to the Court’s Order at Docket No. 59. Directly following the initial meet and confer on February 2, 2022, Defendants provided Plaintiffs with a hit report regarding the proposed search terms for class discovery. Plaintiffs’ provided Defendants with their proposals to the search terms to reduce the amount of hits generated regarding class discovery. *See* **Exhibit A**. Then on February 28, 2022 this Court filed the Report and Recommendation recommending the dismissal of the First Amended Complaint at Docket No. 64, which was subsequently adopted at Docket No. 75.

Therefore, although the parties met and conferred on February 2, 2022, the parties did not complete the meet and confer process regarding class discovery because, pursuant to the Report and Recommendation, the First Amended Complaint was dismissed on February 28, 2022.

Further, because the District Court has not adopted the Report and Recommendation with respect to the Second Amended Complaint, it is entirely premature for the parties to engage in discovery, as any decision or ruling from the District Court may change the scope of discovery.



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If the Court is inclined to issue an order related to discovery, we respectfully request that it be limited to the parties completing their meet and confer process and jointly working together to complete a new case management order.

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We appreciate Your Honor's attention to this matter.

Respectfully submitted,

/s/ Shivani Poddar

cc: All counsel of record (via ECF)